Application No. 09/524,310
Filed: March 14, 2000
TC Art Unit: 3627
Confirmation No.: 8521

REMARKS

The foregoing Amendment is filed in response to the official action dated December 2, 2005. Reconsideration is respectfully requested.

The status of the claims is as follows:

Claims 1-7, 9-28, 30-33, 35-36, and 61-63 are currently pending.

Claims 1-7, 9-28, 30-33, 35-36, and 61-63 stand rejected.

Claims 1 and 35-36 have been amended.

The Examiner has rejected claims 1-7, 9-28, 30-33, and 35-36 under 35 U.S.C. 103(a) as being unpatentable over Kahn et al. (USP 6,401,079) in view of Swart (USP 6,347,306) and further in view of Timeslips Deluxe. Specifically, the official action indicates that the combined teachings of Kahn et al. and Swart suggest the claimed subject matter with the exception that the combination of the Kahn and Swart teachings fails to explicitly disclose utilizing information relating to actual times when at least one completed shift begins and finishes, and actual times when each sub-shift within the completed shift begins and finishes. The official action further indicates that the Timeslips reference discloses the concept of processing worksheets for the purpose of billing, including an employee activity (sub-shift) and actual

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times (start and end) when each sub-shift within a completed shift begins and finishes (such as a work hour day). The official action therefore concludes that it would have been obvious to one of ordinary skill at the time of the invention to modify the payroll system of Kahn et al. to include the punch IN/OUT automatic tracking of time and attendance data of employees taught by Swart, and to include the processing of activities (sub-shift) within a work day of Timeslips to facilitate the calculation of an employee completed shift or work segment.

The Applicant has amended claims 1 and 35-36 to include the limitations, "each of the completed shifts corresponding to at least one scheduled period of work", and "each of the plurality of sub-shifts corresponding to at least one scheduled sub-period of work". The notion that each completed shift corresponds to at least one scheduled period of work, and each sub-shift corresponds to at least one scheduled sub-period of work, is described throughout the instant application, for example, see page 4, lines 24-25, and page 15, lines 7-10, of the application. The Applicant respectfully submits that claims 1-7, 9-28, 30-33, and 35-36, as amended, recite non-obvious subject matter that distinguishes over the art of record.

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For example, the teachings of the Kahn, Swart, and Timeslips references, taken alone or in combination, would not have suggested to one skilled in the art the method of automatically calculating an employee's compensation of amended claim 1, which recites, in a processor, associating sets of attributes with pay categories, associating a compensation qualifier with each pay category, collecting information corresponding to identified transactions, in which the identified transactions include punch information, forming one or more completed shifts, responsive to the identified transactions and the employee's schedule, in which each of the completed shifts corresponds to at least one scheduled period of work, splitting the employee's shifts into a plurality of sub-shifts, responsive to work parameters, in which each of the plurality of sub-shifts corresponds to at least one scheduled sub-period of work, in which the punch information includes information relating to actual times when at least one of the completed shifts begins and finishes, actual times when each sub-shift within the at least one completed shift begins and finishes, and actual times when the employee changes work assignments during the at least one completed shift, in which each work assignment corresponds to at least one respective sub-shift within the at least one completed shift, and for each sub-shift, determining a

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set of attributes for the sub-shift, determining a pay category with which the set of attributes is associated, assigning the pay category to the sub-shift, and determining compensation for the employee for the sub-shift, responsive to the assigned pay category, in which the employee's base pay and a compensation qualifier are associated with the pay category, thereby allowing compensation to be determined for the employee who begins and finishes work at different times during the at least one completed shift, and who has different work assignments during different sub-shifts within the at least one completed shift.

Kahn et al. disclose a method of calculating an employee's compensation, while Swart discloses automatically processing payroll using time and attendance data. In contrast, as indicated in the official action, the Timeslips reference discloses a time and billing package for processing worksheets for the purpose of billing. The Applicants respectfully submit that "billing" is significantly different from calculating employee compensation or processing payroll data. In fact, as disclosed in the Timeslips reference, the Timeslips time/billing package is not meant for use in calculating employee compensation, but is instead meant for use in tracking the time and expenses of service professionals such as lawyers, accountants, and consultants (see page P-1, first

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paragraph, of Timeslips Deluxe). <u>Service professionals know full well that such time and expenses do not directly translate into compensation.</u> Because the Kahn and Swart references and the Timeslips reference relate to <u>different purposes</u>, it is respectfully submitted that <u>there is no motivation to combine the teachings of these references</u>, as suggested in the official action.

Even if there were sufficient motivation to combine the teachings of the Kahn, Swart, and Timeslips references, as suggested in the official action, the Applicants respectfully submit that the combined teachings would not have suggested to one skilled in the art the method of automatically calculating an employee's compensation, as recited in amended claim 1. The official action indicates that the Timeslips reference discloses the processing of worksheets for billing purposes, including an employee activity (sub-shift) and actual times (start and end) when each sub-shift within a completed shift begins and finishes (such as a work hour day). As discussed above, however, billing is significantly different from calculating employee compensation. <u>In general, billing relates to the amount of business performed within a specific time period.</u> Such specific time periods during which varying amounts of business are performed are mentioned

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throughout Chapter 3 of the Timeslips reference. For example, on page 3-13 of the Timeslips reference, an exemplary bill of the Hamilton Services Corporation is shown. On this bill, varying amounts of business performed within specific time periods are indicated, e.g., 3.00 hours of editing a first draft of a project evaluation were performed on 10/11/95; 6.00 hours of drafting a plan for a spring promotional campaign were performed on 10/15/95; and, 1.00 hour of reading and revising a draft document was performed on 10/26/95.

Significantly, _the bill of the Hamilton Services Corporation provided on page 3-13 of the Timeslips reference does not provide any information whatsoever relating to actual times during the designated days when work on the various business activities began and finished_. For example, as discussed above, this bill indicates that 3.00 hours of editing a first draft of a project evaluation were performed on 10/11/95. _However, the bill provides no indication of the actual times when this 3.00 hour period began and finished on 10/11/95._ In fact, this bill provides no indication of whether the 3.00 hours of editing the draft were performed during a continuous time period, or whether the 3.00 hours were broken into a number of time segments throughout the day. _In either case, the Timeslips time/billing package would_

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generate the *same bill*, indicating only the *total 3.00 hour period* spent editing the draft on 10/11/95, not the *actual times* when this 3.00 hour period *began* and *finished* on 10/11/95.

In contrast, calculating employee compensation involves a consideration of the different times when an employee begins and finishes work during at least one shift, and the different work assignments performed by the employee during sub-shifts within each shift. As recited in amended claim 1, <u>each shift corresponds to at least one scheduled period of work</u>. Each shift <u>corresponding to a scheduled period of work</u> therefore has <u>an</u> actual "begin time" and <u>an</u> actual "finish time". As explained above, when generating a bill for services rendered, <u>no</u> consideration whatsoever is given to the <u>actual times</u> when work on a specific assignment <u>began</u> and <u>finished</u> on a particular day. All that is required to generate the bill is <u>the total time spent</u> performing the assigned task – <u>the actual times</u> when work <u>began</u> and <u>finished</u> on a particular day <u>are</u> <u>irrelevant</u> when generating the bill.

For at least the reasons provided above, the Applicants respectfully submit that the Timeslips reference neither teaches nor suggests a method of calculating employee compensation utilizing information relating to <u>actual times</u> when at least one

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completed shift begins and finishes, and actual times when each sub-shift within the completed shift begins and finishes, as recited in amended claim 1. Further, as indicated above, the combination of the Kahn and Swart references fails to disclose using information relating to actual times when at least one completed shift begins and finishes, and actual times when each sub-shift within the completed shift begins and finishes. The Applicants therefore respectfully submit that the combined teachings of the Kahn, Swart, and Timeslips references would not have suggested to one skilled in the art the method of amended claim 1 and the claims dependent therefrom.

For at least the reasons provided above with reference to amended claim 1, the Applicants further submit that the combined teachings of the Kahn, Swart, and Timeslips references would not have suggested to one skilled in the art the subject matter of base claims 33 and 35-36. Accordingly, it is respectfully submitted that the rejections of claims 1-7, 9-28, 30-33, and 35-36 under 35 U.S.C. 103(a) should be withdrawn.

The Examiner has rejected claims 61-63 under 35 U.S.C. 103(a) as being unpatentable over the combination of the Kahn and Swart references in view of the Timeslips reference, as applied to claim 1 above, and further in view of Wynn et al. (USP 5,717,867). The

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Applicants respectfully submit, however, that the Wynn reference fails to cure the deficiencies of the Kahn, Swart, and Timeslips references. In addition, the Applicants point out that claim 61 recites the step of automatically making an employee *shift* assignment. In contrast, the Wynn reference merely discloses a *job* change function, which is employed when a particular employee has changed job assignments for a specific work shift (see column 5, lines 4-8, and Fig. 12 of Wynn et al.). The Applicants respectfully submit that making a shift assignment is significantly different from making a job assignment. The Applicants further submit that even though Wynn et al. disclose storing information from time clocks in a plurality of hours data structures (see column 14, lines 18+, of Wynn et al.), the Wynn reference provides no hint as to how the information stored in these data structures might be used to make an employee *shift* assignment. The combined teachings of the Kahn, Swart, Timeslips, and Wynn references therefore would not have suggested to one skilled in the art the subject matter of claims 61-63. Accordingly, it is respectfully submitted that the rejections of claims 61-63 under 35 U.S.C. 103 should be withdrawn.
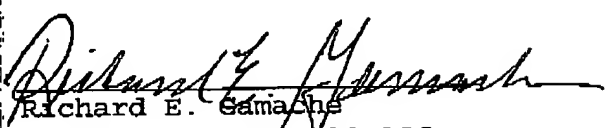
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In view of the foregoing, it is respectfully submitted that the present application is in a condition for allowance. Early and favorable action is respectfully requested.

The Examiner is encouraged to telephone the undersigned Attorney to discuss any matter that would expedite allowance of the present application.

Respectfully submitted,

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